

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

EDUARDO REYES,

No. C 08-813 SI (pr)

Plaintiff,

ORDER

v.

RICHARD KIRKLAND, warden;
et al.,Defendants.

Defendants filed a motion for summary judgment in which they argued, among other things, that they were entitled to qualified immunity. After defendants filed their motion, plaintiff filed a "motion for request for production of documents," and a "motion for continuance; renewal of motion to appoint counsel." Defendants opposed the motions, arguing that discovery should be stayed pending resolution of their motion for summary judgment because they raised a qualified immunity defense in it.

The U.S. Supreme Court has made it abundantly clear that a district court should stay discovery until the threshold question of qualified immunity is settled. See Crawford-El v. Britton, 523 U.S. 574, 598 (1998); Anderson v. Creighton, 483 U.S. 635, 646 n.6 (1987); Harlow v. Fitzgerald, 457 U.S. 800, 818 (1982). In light of the fact that defendants' motion for summary judgment raises a qualified immunity defense, plaintiff's motion for discovery and motion for continuance to obtain discovery are DENIED. (Docket # 51, # 52.) Discovery is now STAYED pending resolution of the motion for summary judgment or other court order.


1 The court notes that, as a practical matter, plaintiff did receive the 30-day continuance
2 he requested because he did not file his opposition to the motion for summary judgment until a
3 month after the deadline. Plaintiff's opposition to the motion for summary judgment is deemed
4 timely filed, as is defendants' reply.

5 Plaintiff's renewed motion for appointment of counsel is DENIED for the same reasons
6 the court denied his original motion for appointment of counsel. (Docket # 51.)

7 The motion for summary judgment is now fully briefed and remains under submission.

8 IT IS SO ORDERED.

9 Dated: May 3, 2010



SUSAN ILLSTON
United States District Judge